

**Special Courts Committee
Judicial Conference of Indiana**

February 12, 2010
Minutes

1. Members present. The following members of the Committee were present: Kenneth Abbott, Richard Campbell, Randy Coffey, Jennifer DeGroote, Alison Frazier, David Grund, Stephanie LeMay-Luken, Michael Pagano, Richard Tandy, and Russell Sanders, chair.
2. Staff present. Michelle C. Goodman provided the Committee with staff assistance.
3. Approval of minutes. The Committee unanimously approved the minutes from the November 2009 meeting.
4. Report from Board of Director meeting. Judge Sanders reported to the Committee that the Board of Directors approved the rule proposals submitted by the Committee. The proposals will now be sent to the Supreme Court for review.

Magistrate Pagano asked the Committee to consider some questions he received regarding the rule proposals. The Committee discussed whether TR 9.2 and SCR 2 required the contract and statement of account or only one of these to be attached to the claim/pleading. The Committee agreed that both provisions required both to be filed. The Committee discussed whether the statement of account would constitute a prima facia showing for default requests. The Committee noted that both are in the form of an affidavit and the necessary factors so a separate affidavit would not be necessary.

Judge Sanders also reported that at the Board meeting, one member raised an issue concerning the increase in civil collection cases that could have been filed as small claims cases. The Board asked to the Committee to study this further. The Committee briefly discussed this concern and was asked to informally survey others on this issue for further discussion at the next meeting.

5. Benchbook revisions. The Committee reviewed the follow benchbook sections:
 - a. 5.00 – The Committee discussed the reference to the county court provisions. Noting that since there are no county courts in existence, these provisions should be removed from this section.
 - b. 4.01 – The Committee made several change including the removal of repealed statutory cites and amending the rule titles. The Committee requested that 11(c) should be reviewed to see if there are any cases that discuss this provision.
 - c. 4.02 – The Committee requested that the references to county courts be removed and that the statutory references on transfer to the plenary docket be reviewed.
 - d. 4.03 – The Committee requested that a paragraph be drafted regarding bifurcated hearing based on the Jamestown Homes case. The Committee also requested that

the dismissal/default language be redrafted to include failure to appear at hearing or trial. This information should be moved to a more appropriate location. Also E(2) should be redrafted to include LLP/LLC language and the appropriate forms updated.

- e. 4.04 – The Committee requested the references to county courts be removed from A(6) and C(2) should be moved to the same location as the default/dismissal language in 4.03. The Committee also requested the addition of IC 34-51-3-4 to this section.
 - f. 4.05 – No changes
 - g. 4.06 (a-f) – No changes
 - h. The Committee held 4.06 (g-k) and 4.07 until the next meeting.
6. 2010 Meeting Schedule. The schedule of meetings for 2010 is:
Friday, May 14
Friday, August 13
Friday, November 12
All meetings will be held at the Indiana Judicial Center at 11 a.m.

Respectfully submitted,

Michelle Goodman
Indiana Judicial Center